

DECLARATION OF SCOTT WM. DAVENPORT

I, Scott Wm. Davenport, declare:

1. I am an attorney licensed to practice law in the State of California and before this Court. I am an attorney in the law firm of Jones Mayer, counsel of record for Defendants in this matter. This Declaration is submitted in support of Defendants' Motion for Summary Judgment and/or Partial Summary Judgment of Issues. If called as a witness, I would and could competently testify to all of the facts contained within this declaration based upon my personal knowledge.

2. Attached hereto as *Exhibit "A"* is a true and correct copy of Plaintiff's Complaint dated April 19, 2023, which was filed in this matter.

3. Attached hereto as *Exhibit "B"* is a true and correct copy of excerpts of the Deposition of Joseph Garcia dated August 13, 2024, which was taken in this matter.

4. Attached hereto as *Exhibit "C"* is a true and correct copy of excerpts of the Deposition of Joseph Garcia dated August 19, 2024, which was taken in this matter.

5. Attached hereto as *Exhibit "D"* is a true and correct copy of excerpts of the Deposition of Corey Guerra dated August 19, 2024, which was taken in this matter.

6. Attached hereto as *Exhibit "E"* is a true and correct copy of excerpts of the Officer Nicholas Koahou dated October 10, 2024, which was taken in this matter.

7. Attached hereto as *Exhibit "F"* is a true and correct copy of excerpts of the Deposition of Martin Salazar dated August 13, 2024, which was taken in this matter.

8. Attached hereto as *Exhibit "G"* is a true and correct copy of excerpts of the Deposition of Gregory Gallo dated August 19, 2024, which was taken in this matter.

1 9. Attached hereto collectively as *Exhibit* “H” are a hypertext link to
2 Officer Koahou’s Belt Recording (H-1) and a hypertext link to a Bystander Video
3 of the events (H-2), true and correct copies of which are also being physically
4 lodged with the Court concurrent with the filing of this pleadings. Both the audio
5 clip and the video clip were produced during Defendants’ initial disclosures at
6 Bates Stamp 882 (audio) and 886 (video) and were separately authenticated by the
7 witnesses to the events during their deposition testimony. and the video clips ,
8 both of which have been manually lodged separately. See Koahou Depo at 19
9 (audio); Salazar Depo at 38-45 (audio), 46-48 (video); Gallo Depo at 24-29
10 (audio), 37-39 (video); Guerra Depo at 30-37 (audio), 37-41 (audio); Garcia Depo
11 at 65-69 (video). In addition, prior to bringing this motion, Plaintiff’s Counsel
12 stipulated to the authenticity of the audio and video clips. A true and correct copy
13 of email correspondence confirming this stipulation is attached hereto as *Exhibit*
14 “I”.

15 10. Prior to bringing this motion, Defendants attempted to meet and
16 confer regarding the issues presented herein as required by Local Rule 7-3.
17 Pursuant to this Court’s Standing Order, the details of this meet and confer
18 conference are as follows:

- 19 (1) Names of Attorneys Present: Renee Valentine Masongsong, James
20 Terrell and Sharon Brunner for Plaintiff and Scott Wm. Davenport for
21 Defendants;
- 22 (2) Date Conference Held: December 12, 2024, at 2:00 p.m.;
- 23 (3) Conference Length: 30 minutes [2:00 p.m. to 2:30 p.m.];
- 24 (4) Manner in Which Conference Held: Via Zoom;
- 25 (5) Issues Discussed: (a) Sufficiency of Plaintiff’s Excessive Force
26 Claim; (b) Qualified Immunity; (c) Sufficiency of Administrative Tort
27 Claim; (d) California Statutory Immunities [GC 821.6, 820.2, 815.2,
28 etc.]; (e) Sufficiency of Plaintiff’s Battery Claim; (f) Sufficiency of

1 Plaintiff's Negligence Claim; (g) Sufficiency of Plaintiff's Negligent
2 Infliction of Emotional Distress Claim; (h) Sufficiency of Plaintiff's
3 Claim for Violation of the Bane Act; and (i) Potential Heck v.
4 Humphrey Bar.

5 (6) What Issues Were Resolved: Plaintiffs agreed not to go forward on an
6 independent cause of action for Negligent Infliction of Emotional
7 Distress (*Casouras v. CHP*, 17 Cap.App.5th 766 (2017); Defendants
8 agreed not to seek summary judgment based on either the
9 insufficiency of the Administrative Tort Claim or based on *Heck v.*
10 *Humphrey* [unless supplemental analysis reveals that plaintiff was
11 convicted of delaying, resisting arrest, or battery on a police officer].
12 The parties further agreed to work together on a revised briefing
13 schedule so as not to impact Holiday or vacation plans by both
14 counsel.

15 11. Finally, following the meet and confer conference, I sent a confirming
16 email to plaintiff's counsel regarding the scope of our meet and confer and the
17 contents of this declaration, which Plaintiff's Counsel confirmed. A true and
18 correct copy of this email exchange is attached hereto as *Exhibit "J"*.

19 I declare under penalty of perjury under the laws of the United States that
20 the foregoing is true and correct. Executed this 19th day of December, 2024, at
21 Chula Vista, California.

22 /s/ Scott Wm. Davenport
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24 _____
25 Scott Wm. Davenport,
26 Declarant
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